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BEYER WEAVER & THOMAS LLP  
P.O. BOX 778  
BERKELEY, CA 94704-0778

EXAMINER

SALCE, JASON P

ART UNIT PAPER NUMBER

2611

DATE MAILED: 06/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/733,609

Applicant(s)

COURTNEY ET AL.

Examiner

Jason P Salce

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 21-41 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21-41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. New claims 21-41 have been added and claims 1-20 have been cancelled, therefore the examiner has provided a new grounds of rejection regarding the new claims, and this Office Action is made Final.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 21-22, 25-27, 31-36 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 6,675,385) in view of Kim et al. (U.S. Patent No. 6,209,131).

Referring to claim 21, Wang discloses providing access to data that is periodically transmitted by a broadcaster in a broadcast system (see Column 3, Lines 59-61 and Figure 1).

Wang also discloses receiving, by a receiver in said broadcast system (see element 24 in Figure 1), a selection that identifies a first data portion in a plurality of data portions that are periodically transmitted by said broadcaster in said broadcast system (see again Column 3, Lines 59-61 for periodically transmitting a first data portion (updated EPG data) in a plurality of data portions (the EPG data) and Column 6, Lines 53-55 for the viewer making a selection for the EPG data transmitted periodically).

Wang also discloses determining whether said first data portion is available in a storage used to store said periodically transmitted data and providing access to said first data portion in said broadcast system when said determining determines that said first data portion is available in said storage (see Column 8, Lines 49-59 for a Channel Guide Broadcast Event, which downloads EPG data in the background so that when a viewer tunes to a channel before the viewer tunes to the channel). An example is shown in Figures 4-5, where the movie Blankman is selected a first portion of data, downloaded in advance is displayed, therefore when the channel is selected, it is determined if the Channel Guide Broadcast Event has downloaded the data immediately to the settop box (i.e. stored in the cache, as described in Column 8, Lines 49-59).

Wang also discloses storing said first data portion in said storage when said determining determines that said first data portion is not available in said storage (see Column 8, Lines 47-48 for a Channel Guide Simulcast Event and Column 8, Lines 24-34 for downloading simulcast data only when a viewer tunes to a specific channel, therefore the simulcast data is inherently not available in the storage and must be downloaded from the carrousel).

Wang also discloses that a delay of a few seconds is possible when waiting for the simulcast data to be downloaded, but fails to specifically disclose sending a notification when said first data portion has been stored in the storage device and becomes available for access, therefore allowing the user to access the first data portion after the notification is sent.

Kim also discloses a system that downloads EPG information to a set-top box (see Column 4, Lines 16-28), and further discloses that upon update of the EPG data in the user's set-top box displayed a notification that the first data portion (updated EPG data) is available for access by the display of an icon (the notification). Also note Column 7, Lines 44-54 for a further example.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG, as taught by Wang, using the update notification icon, as taught by Kim, for the purpose of preventing the viewer from becoming confused and also reserving an undesired program (see Column 7, Lines 48-50 of Kim).

Claim 22 corresponds to claim 21, where Wang discloses receiving a request for updates of said first data portion (see Column 9, Lines 41-43).

Wang also discloses determining whether said first data portion has been updated and sending an update notification when said first data portion has been updated (again see the rejection of claim 21 for updating and notifying the viewer).

Claim 25 corresponds to claim 21, where Wang discloses that said access to said first data portion is provided by creating a file system that represents data transmitted by said broadcaster (see Column 3, Lines 62-67 and Column 4, Lines 1-8 for creating a file system (linked EPG web pages (HTML files)), which are transmitted from a broadcaster and provides access to a first data portion).

Wang also discloses that a set of input and output functions are provided for said file system (see Column 4, Lines 55-58 for outputting the web pages to a TV display and Column 6, Lines 53-55 for inputting a selection to view one of the web pages).

Claim 26 corresponds to claim 25, where Wang discloses creating an object file (see the creation of HTML web pages, in the rejection of claim 25, and note that a plurality of linked HTML files is the file system and one HTML is the object file).

Claim 27 corresponds to claim 26, where Wang discloses that the files are transmitted using a carrousel; therefore the web pages are carrousel files (see Column 6, Lines 5-8).

Referring to claims 31-33, see rejection of claims 1-3, respectively.

Referring to claims 34-36, see rejection of claims 25-27, respectively.

Referring to claims 38-40, see rejection of claims 1 and 26-27, respectively.

3. Claims 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 6,675,385) in view of Kim et al. (U.S. Patent No. 6,209,131) in further view of Skeen et al. (U.S. Patent No. 5,187,787).

Referring to claim 23, Wang and Kim teach all of the limitations in claim 23, as well as Wang disclosing determining whether said first data portion has been updated and sending an update notification when said first data portion has been updated (again see the rejection of claim 21 for updating and notifying the viewer), but fails to teach a subscription request.

Skeen discloses making a subscription request from a client to a server (see Column 20, Lines 9-19).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the information request system, as taught by Wang and Kim, to further allow a subscription request to made, as taught by Skeen, for the purpose of allowing a user to receive data at specified periods over a period of time, alleviating the need to continually make requests for data from the same service provider.

Claim 24 corresponds to claim 23, where Skeen discloses sending a cancel request from a client to a server, in order to cancel a subscription (see Column 20, Lines 36-47).

4. Claims 28-30, 37 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wang (U.S. Patent No. 6,675,385) in view of Kim et al. (U.S. Patent No. 6,209,131) in further view of Sarfati et al. (U.S. Patent No. 6,478,222).

Referring to claim 28, Wang and Kim disclose the use of a carrousel, but fails to disclosure the use of the Java programming language (which inherently uses classes to process data requests (function calls to subroutines)) to produce the carrousel file. Sarfati discloses a DSMCC-UU Package 65 (DSM-CC is the carrousel type being used), which allows communication between a client and a server for data file search and reading (see Column 6, Lines 60-64), and the package is written in Java (see Column 5, Lines 48-49).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify the carrousel, as taught by Wang and Kim, using the Java implemented carrousel, as taught by Sarfati, for the purpose of enabling

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independence between upper level applications 66 which are usually provided by the system manager or one or more operators, and a lower level operating system 51, usually implemented by the hardware manufacturer of the decoder (see Column 5, Lines 38-42).

Claim 29 corresponds to claim 28, where Sarfati also discloses instantiating a carousel file object (see Column 7, Lines 59-61).

Sarfati also discloses initiating a read operation on the carousel file object and waiting until the read operation successfully completes (see Column 10, Lines 6-8 and note that if a user requests to execute any of the applications, the user would inherently have to wait until execution is complete).

Claim 30 corresponds to claim 29, where Sarfati also discloses access is provided by a JAVA API (see Column 5, Lines 47-49).

Referring to claims 37 and 41, see rejection of claim 28.

### ***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of



the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P Salce whose telephone number is (703) 305-1824. The examiner can normally be reached on M-Th 8am-6pm (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

May 28<sup>th</sup>, 2004

  
JASON P. SALCE  
PATENT EXAMINER